

NOT FOR PUBLICATION

JAN 24 2008

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CLIFFORD G. BIRDINGROUND,

Defendant - Appellant.

No. 06-30658

D.C. No. CR-02-00049-RFC

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Montana  
Richard F. Cebull, District Judge, Presiding

Submitted January 14, 2008\*\*

Before: HALL, O'SCANNLAIN and PAEZ, Circuit Judges.

Clifford G. Birdinground appeals from the district court's decision,  
following limited remands under *United States v. Ameline*, 409 F.3d 1073, 1084-  
85 (9th Cir. 2005) (en banc), and *United States v. Montgomery*, 462 F.3d 1067,

---

\* This disposition is not appropriate for publication and is not  
precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

1069 (9th Cir. 2006), that his previously imposed sentence would not be different under the advisory Guidelines. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Birdinground raises unpreserved challenges to his original sentence and also argues that the district court was biased and did not sufficiently consider the sentencing factors set forth in 18 U.S.C. § 3553(a). However, “[t]he limited remand procedure left no room for the district judge to consider new objections to the original sentence,” and our review of the district court’s decision here is limited to whether “the district judge properly understood the full scope of his discretion” under *United States v. Booker*, 543 U.S. 220 (2005). *See United States v. Combs*, 470 F.3d 1294, 1297 (9th Cir. 2006). We conclude that the record reflects that the district court “understood [its] post-*Booker* authority to impose a non-Guidelines sentence.” *See id.*

**AFFIRMED.**